

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT T. BROCKMAN,

Defendant.

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Cr. No. 4:21cr 009 GCH

**UNOPPOSED MOTION FOR AN ORDER UNDER
FEDERAL RULES OF CRIMINAL PROCEDURE 17(C)(1)**

The United States, by and through counsel, respectfully requests the Court to issue an Order pursuant to Fed. R. Crim. P. 17(c)(1) requiring Dr. Stuart Yudofsky to produce to the government in thirty days documents and records referred to in a hearing subpoena served upon him on or about May 10, 2021 (*See Exhibit 1*). Defendant does not oppose this motion.

I. PROCEDURAL POSTURE

On December 8, 2020, Defendant filed a motion for a competency hearing pursuant to 18 U.S.C. § 4241. *See* 20-cr-371 (N.D. Cal.) (“NDCA”) *Dkt. No. 64* (the “Motion”). Defendant’s motion specifically refers to Dr. Yudofsky. On December 15, 2020, government filed its response to Defendant’s Motion (the “Response”) agreeing that a competency hearing is appropriate in this case. *See NDCA Dkt. No. 69*. On January 4, 2021, this case was transferred from the Northern District of California to this Court. *See NDCA Dkt. No. 76*. On February 1, 2021, this Court, on an Agreed Motion by the parties, entered a Scheduling Order setting a Competency Hearing in this case for June 29, 2021. *Dkt. No. 36*. On April 28, 2021, on an Agreed Motion by the Parties, the Court entered a revised Scheduling Order setting the Hearing for September 13, 2021. *Dkt. No. 53*.

On January 26, 2021, the government filed a motion under Fed. R. Crim. P. 17(c) and 45 CFR § 164.512(e)(1)(i) for an Order requiring Defendant's medical doctors, including Dr. Yudofsky, to provide to the government Defendant's historical medical records within 30 days of service of a subpoena. *Dkt No. 26*. On February 10, 2021, Defendant filed his partial opposition to the government's Motion. In Defendant's response, Defendant did not oppose an Order compelling Dr. Yudofsky to produce to the government medical records in his possession relating to Defendant in advance of Defendant's competency hearing. *Dkt. No. 41*. On May 11, 2021, and again on June 15, 2021, Defendant's counsel re-affirmed that they were not opposed to this motion.

On February 24, 2021, Dr. Yudofsky, through his counsel, was served with a hearing subpoena for records pertaining to Defendant. On or about May 10, 2021, again through his counsel, Dr. Yudofsky was served with a revised hearing subpoena for the September 13, 2021 hearing date, again seeking the production of records and documents pertaining to Defendant. *See Exhibit I*. Many other witnesses were similarly served with hearing subpoenas, and most of them have produced to the government the requested documents and records. Despite repeated phone conversations and email exchanges with Dr. Yudofsky's counsel, however, Dr. Yudofsky has not produced to the government any documents or records.

II. REQUESTED RELIEF

Accordingly, the Government requests, that in order to avoid unnecessary delay, Dr. Yudofsky be ordered by the Court to produce any and all relevant records in his possession relating to Defendant, in compliance with the hearing subpoena served upon his counsel, as soon as possible - at a maximum, within thirty days of the issuance of this Proposed Order.

Respectfully submitted this 16th day of June 2021,

DAVID A. HUBBERT
Acting Assistant Attorney General

s/ Corey J. Smith
COREY J. SMITH
Senior Litigation Counsel
LEE LANGSTON
CHRISTOPHER MAGNANI
Trial Attorneys
Department of Justice
Tax Division

Attorneys for United States of America

Certificate of Conference and Service

I the undersigned do hereby certify that on June 15, 2021, government's counsel conferred with Defendant's counsel who confirmed that they were unopposed to this Motion. On the 16th day of June, 2021 I electronically filed the foregoing with the Clerk of Court using the ECF electronic filing system, which will send notice of electronic filing to Defendant's counsel of record.

/s/ Corey J. Smith
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